

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

WILLIAM GENE EATON,)
)
Plaintiff,)
)
vs.) Case No. CIV-06-566-M
)
OKLAHOMA COUNTY SHERIFF'S)
DEPARTMENT, et al.,)
)
Defendants.)

ORDER

On July 18, 2007, United States Magistrate Judge Doyle W. Argo issued a Report and Recommendation in this action brought pursuant to 42 U.S.C. § 1983, alleging violations of plaintiff's constitutional rights. The Magistrate Judge recommended that defendant Sheriff John Whetsel's motion for summary judgment be granted. Plaintiff was advised of his right to object to the Report and Recommendation by August 7, 2007. After receiving an extension of time, plaintiff filed his objections on September 10, 2007.

In the Report and Recommendation, the Magistrate Judge found:

Because Plaintiff has failed to designate specific facts sufficient to establish an essential element of his claim, that Sheriff Whetsel personally participated in bringing about any alleged deprivation of Plaintiff's constitutional rights, controlled the situation which led to the alleged deprivations, or that the alleged deprivations occurred as a result of his failure to supervise, Sheriff Whetsel is entitled to summary judgment on Plaintiff's § 1983 claims.

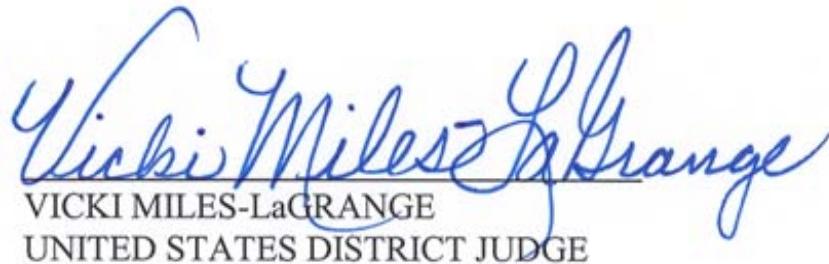
Report and Recommendation [docket no. 48] at 8. Having carefully reviewed the court file, including plaintiff's objections to the Report and Recommendation, the Court agrees with the Magistrate Judge's above-referenced finding. Additionally, in the Report and Recommendation, the Magistrate Judge found that "[t]he existence of the Sheriff's deputies authority to cause Plaintiff's

vehicle to be towed negates an essential element of Plaintiff's claim for conversion against Sheriff Whetsel, namely unauthorized assumption of control of the vehicle." Report and Recommendation at 9-10. Having carefully reviewed the court file, including plaintiff's objections to the Report and Recommendation, the Court agrees with the Magistrate Judge and finds that plaintiff can not maintain a claim for conversion against Sheriff Whetsel because the deputies had authority to cause plaintiff's vehicle to be towed.

Accordingly, upon de novo review, the Court:

- (1) ADOPTS the Report and Recommendation issued by the Magistrate Judge on July 18, 2007;
- (2) GRANTS defendant Sheriff John Whetsel's motion for summary judgment [docket no. 42]; and
- (3) ORDERS that judgment issue forthwith in favor of defendant Sheriff John Whetsel and against plaintiff.

IT IS SO ORDERED this 13th day of September, 2007.



VICKI MILES-LaGRANGE
UNITED STATES DISTRICT JUDGE